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10/696,418	10/29/2003	William P. Fell		6737

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EXAMINER

AVILA, STEPHEN P

ART UNIT	PAPER NUMBER
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3617

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/696,418
Filing Date: October 29, 2003
Appellant(s): FELL ET AL.

MAILED

APR 14 2006

GROUP 3600

Mr. Michael Tavella
For Appellant

EXAMINER'S ANSWER

The examiner's answer mailed September 1, 2005 has been vacated.

This is in response to the Appeal Brief filed June 17, 2005 and the Supplemental Appeal Brief filed March 30, 2006 appealing from the Office action mailed April 4, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims is correct except for the status of the claims canceled in a previous amendment. A correct statement of the status of the claims canceled in a previous amendment is as follows:

Claims 1-8 have been canceled.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

3,842,787	Giacosa	10-1974
3,071,102	Buehler	01-1963
3,089,454	Chronic	05-1963
5,967,868	Ito et al	10-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 9-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Giacosa. Giacosa discloses the claimed subject matter including a steering system for a boat having an outboard motor with a jet drive output (note Figure 1, for example) with a directional nozzle 17, pivoting means 22 and means for pivoting (note column 3, lines 20-25), an adapter ring (part containing P1, P2; note Figure 2), and a curved hood 23 pivotably attached to the nozzle (at 24) and raising and lowering means (note column 3, lines 25-30).

Claims 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giacosa in view of Buehler. Giacosa does not disclose a tiller. Buehler teaches a tiller 35 with speed control 85. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Giacosa with a tiller for steering and speed control as taught by Buehler to be more easily operated.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giacosa in view of Chronic. Giacosa does not disclose a cable actuator. Chronic teaches

cables 24, 43. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Giacosa with cables to control the nozzle and hood as taught by Chronic for light weight.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giacosa in view of Ito et al. Giacosa does not disclose handlebars. Ito et al teach handlebars 90 in a steering system. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the steering system of Giacosa with handlebars as taught by Ito et al for ease of steering.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giacosa in view of Buehler as applied to claim 9 above, and further in view of Chronic. Giacosa does not disclose a cable actuator. Chronic teaches cables 24, 43. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Giacosa with cables to control the nozzle and hood as taught by Chronic for light weight.

Claims 16-18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 21-27 are allowed.

(10) Response to Argument

Appellant alleges that the part containing the inclined faces P₁, P₂ of Giacosa is not an adapter ring. However, as can be clearly seen from Figure 2 of Giacosa, the part containing the inclined faces, P₁, P₂ is clearly separate from part 15 or the part 15 is in

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two pieces. The part containing P1, P2 is clearly a ring and annular at it is tube shaped and the water jet flow moves through the center hollow portion of the ring. Further the ring containing P1, P2 is clearly attached to the nozzle 17 via hinges 18, 19 and is attached to the other half of 15 (note Figure 2, for example).

Appellant further alleges that the parts I1 and I2 of Giacosa are not brackets. However, it is noted that none of the claims under appeal contain the bracket limitations. All of the claims setting forth brackets have been indicated as containing allowable subject matter. Only limitations clearly set forth in the claims may be relied upon for patentability.

Appellant further alleges that the part containing P1 and P2 is not an adapter ring. However, as the part clearly connects parts 15 to 17, note Figure 2, the ring is an adapter ring. Not additionally, that adapter ring has no specific meaning in the art.

With respect to all of the combinations of patents with the Giacosa patent, Appellant alleges that the combination do not contain an adapter ring. However, as stated above, Giacosa contains an adapter ring, and thus the combinations are deemed to be proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer. The examiner has noted the Supplemental Appeal Brief filed 3/30/06 by Appellant which states that in the Related Proceedings Appendix that there are no related precedings.

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The Evidence Appendix filed by in the Supplemental Appeal Brief filed 3/30/06 by Appellant which states that there is not evidence under rules 130-132 has been noted by the examiner.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

Stephen Avila

4/13/06

Conferees:

Sherman Basinger:SB 

Samuel Morano:SM 

STEPHEN AVILA
Primary Examiner
TC 3600


4/13/06